Copy of the Complaint of the Houſe of Repreſentatives of *Maſſachuſet's Bay*, againſt Sir *Francis Bernard*:

1851 b 26

WITH

Sir *Francis Bernard's* ANSWER:



TO

The KING's Moſt Excellenc MAJESTY in Council.

The Anſwer of Sir *Francis Bernard*, Baronet, Governor of His Majeſty's Province of *Maſſachuſet's Bay*, to the Complaint preferred againſt him by the Houſe of Repreſentatives of the ſaid Province, now depending before His Majeſty in Council.

The Petition of the Houſe of Repreſentatives of *Maſſachuſet's Bay* to the King's Moſt Excellent Majeſty, for the Removal of Sir *Francis Bernard*, Baronet, for ever from the Government.

To the King's Moſt Excellent Majeſty.

Moſt Gracious Sovereign,

WE Your Majeſty's moſt dutiful and faithful Subjects the Repreſentatives of your ancient and loyal Colony of the *Maſſachuſet's Bay*; impreſſed with the deepeſt Gratitude to ALMIGHTY GOD, for calling to the *Britiſh* Succeſſion Your illuſtrious Family; and ſo firmly eſtabliſhing Your Majeſty on the Throne of Your Royal Progenitors: And being abundantly convinced of Your Majeſty's Grace and Clemency; moſt humbly implore the Royal Favor, while we briefly repreſent our Grievances, which Your Majeſty alone under GOD can redreſs.

We are conſtrained in Duty to Your Majeſty, and in Faithfulneſs to our Conſtituents, to lay before Your Majeſty our Complaints of his Excellency Sir *Francis Bernard*, Baronet, Your Majeſty's Governor of this Colony, whoſe whole Adminiſtration appears to have been repugnant not only to Your Majeſty's Service, and the Welfare of Your Subjects in the Colony, but even to the Firſt Principles of the *Britiſh* Conſtitution.

THIS Reſpondent proteſting againſt the Uncertainty, Generality, Irrelevancy, and Inſufficiency of the ſaid Complaint, and againſt his being required to make any unneceſſary, ſuperfluous, or impracticable Proofs, particularly Proofs of the Negative of ſuch Aſſertions in the ſaid Complaint as are not ſupported by any Evidence, and by their Generality and Want of particular Allegations are incapable of negative Proof; and alſo proteſting againſt the unfair Practices uſed by the Complainants, or at leaſt by the Speaker and Clerk of the ſaid Houſe, to deprive him of the Benefit of ſuch Evidence, both written and verbal, as was to be had only at *Boſton*, by refuſing to give him a Copy of the ſaid Complaint, from the 27th Day of *June*, 1769, when the ſaid Complaint paſſed the Houſe, unto the 27th Day of *July*, being but Three Days before the Day fixed for his Departure for *England*, although he frequently applied to the Speaker of the Houſe for ſuch Copy, of the Truth of which he is ready to make Oath: To the Complaint, or to ſuch Part thereof as is material for him to anſwer to, anſwereth as followeth:

And, Firſt, the Reſpondent begs Leave to obſerve of the Complaint, that it had its Origination in a Reſentment againſt the Reſpondent, for his being charged with certain Orders of His Majeſty relating to the Houſe of Repreſentatives, and his declaring his Intention to obey ſuch Orders. This will appear from the Journals of the Houſe of Repreſentatives, where it will be ſeen, that on *June* 21ſt, 1768, the Reſpondent ſent a Meſſage, incloſing an Extract of a Letter from the Secretary of State to him the Reſpondent, ſignifying His Majeſty's Pleaſure, That he ſhould require the Houſe to reſcind a Reſolution of a former Houſe, and declare their Diſapprobation of the ſame. On *June* 23d, the Houſe deſired the Reſpondent would give them a Copy of the other Part of the Secretary of State's Letter. On *June* 24th, the Reſpondent ſent a Copy of the other Part of the Letter, by which he was ordered, in caſe of Refuſal, to diſſolve the Aſſembly; and ſaid, that, if they obliged him to it, he muſt obey his Orders. On *June* 30th, the Houſe paſſed a Vote, that they would not reſcind, *&c.* and paſſed an Anſwer to the Reſpondent to that Purpoſe; immediately after which, they appointed a Committee to prepare a Petition to the King to remove the Governor. The Petition being ready prepared, was immediately reported and read; and upon Debate, it being objected that there was no Proof of the Facts alledged, the Petition was recommitted, and the Committee was ordered to bring Evidence in Support of divers Articles. Thus it reſted until a new Aſſembly met in *May*, 1769, when this Complaint was revived, with ſome little Alteration, and ſome additional Articles ariſing from new Facts; and notwithſtanding it had been before rejected for Want of Proof, it was now admitted without any Proof, and paſſed the Houſe the 27th Day of *June*, 1769. It has been ſince circulated throughout *America* and *Great Britain*, in News-Papers, Magazines, and Pamphlets; it has been commented upon, and argued from, as true, in different Papers; and the Reſpondent has been called upon, by anonymous Writers, to anſwer this Complaint before the Publick, whilſt he was endeavouring to obtain a Hearing of it before the King in Council, and the Agent for the Complainants was doing all he could to prevent it, under a Pretence of waiting for Proofs.

1. From his firſt Arrival here, he has in his Speeches and other public Acts treated the Reprefentative Body with Contempt.

1. And the Reſpondent, further anſwering, ſaith, That the Firſt Article is notoriouſly untrue, it being well known to all who are acquainted with the Government of *Maſſachuſet's Bay*, that from the Time of the preſent Governor's (the Reſpondent's) entering upon that Government, which was in *Auguſt*, 1760, until the Oppoſition made to the Stamp-Act, which began in the Year 1765, a very good Underſtanding and Agreement of Sentiments and Actions between the Governor and the Aſſembly, in both its Branches, continually prevailed; of which

29.

which the Journals of the Houſe afford many pregnant Proofs. But, after the Oppoſition to the Parliament was adopted by the Houſe of Repreſentatives, it became impoſſible for the Reſpondent, or any Governor, to do his Duty and preſerve his Popularity.

2. He has in his public Speeches charged both Houſes of the General Aſſembly expreſsly with Oppugnation againſt the Royal Authority; declaring that they had left Gentlemen out of the Council only for their Fidelity to the Crown.

2. The Reſpondent admits, that he did declare that the General Aſſembly left Gentlemen out of the Council only for their Fidelity to the Crown; and if this is to be deemed Oppugnation againſt the Royal Authority, he admits this Article to be true. And to juſtify ſuch Declaration he obſerves, that, upon the Election of Counſellors in *May* 1766 (which was about a Month after they had received Advice of the Repeal of the Stamp-Act), the Majority of the General Aſſembly turned out the Lieutenant Governor (who was alſo Chief Juſtice of the Province), the Secretary, Two other Judges of the Superior Court, and the Attorney General, all of them Men of irreproachable Characters, and high Eſtimation among the People. There was no accounting for the depriving the Government of the Service of Men of ſuch high Offices, and known Abilities and Integrity, but from an Intention to lower the King's Authority in the Government, and reduce the Royalty of it to mere Form, and veſt all the real Power in the People. That this was and is ſtill the Intention, has been ſince made plain by further Proceedings in ſubſequent Elections, in which every Counſellor who has been known, believed, or even ſuſpected to be diſpoſed to ſupport the Authority of the King and Parliament of *Great Britain*, or the Royal Rights of the Provincial Government, has been turned out of the Council. The Reſpondent begs Leave to refer to a Liſt of Counſellors who have been thus turned out at the Four laſt Elections, which, by an Enquiry into the Characters of the Perſons from thoſe who are acquainted with the Province, will fully prove the Aſſertions above mentioned.

3. He has from Time to Time indiſcreetly and wantonly exerciſed the Prerogative of the Crown, in the repeated Negative of Counſellors of an unblemiſhed Reputation, and duly elected by a great Majority; ſome of them by the unanimous Suffrage of both Houſes of Aſſembly.

3. The Reſpondent admits, that, ſince the Excluſion of the Lieutenant Governor, Secretary, Judges, and Attorney General, from the Council, he has repeatedly uſed the Right given to the Governor by the Charter, of negativing Perſons elected for Counſellors, and returned to him for his Approbation; but he denies that he has acted therein indiſcreetly or wantonly, or upon any other Motive than that of promoting the King's Service. He has, from Time to Time, ſignified to His Majeſty's Miniſters the Principles upon which he formed his Conduct in this reſpect, and has had the Honor to have ſuch Conduct approved of by His Majeſty, as it was ſignified to him by the Earl of *Shelburne*, at that Time one of His Majeſty's Principal Secretaries of State, by his Letter dated *Sept.* 17, 1767, which was after the Second Time of his exerciſing his Negative; from which Letter he begs Leave to inſert the following Words:

"I have the Pleaſure to ſignify to you His Majeſty's Approbation of your Conduct, and to "acquaint you, that He is graciouſly pleaſed to approve of your having exerted the Power "lodged in you by the Conſtitution of the Province of *Maſſachuſet's Bay*, of negativing Coun-"ſellors in the late Elections, which appears from your ſeveral Letters to have been done "with due Deliberation and Judgement."

4. He has declared that certain Seats at the Council Board ſhall be kept vacant, 'till certain Gentlemen who are his Favorites ſhall be re-elected.

4. The Reſpondent denies this Article to be true, ſo far as it relates to the inforcing the Re-election of his Favorites; for he has no Favorites in reſpect to the Government, but ſuch as have recommended themſelves by Fidelity to the King, and Ability to ſerve him. In this Light the Lieutenant Governor and the Secretary may be conſidered as his Favorites; and if ſuch Declaration was made, it was in Favour of them and them only: And he believes he did make ſuch Declaration upon the following Account. Upon the Excluſion of theſe Two Gentlemen from the Council (of which they had been Members for many Years, and by their particular Functions, as well as their Knowledge of the public Buſineſs, were become almoſt neceſſary to that Body) upon Enquiry into the Conſtitution of the preſent Government, it appeared from the Uſage under the former Charter, from Conſiderations previous to the granting the preſent Charter, from the Words of the Charter itſelf, and from the Practice of the firſt Year after the Opening the Charter, that the Lieutenant Governor and the Secretary had a Right to Seats and Voices in the Council in virtue of their Offices, and without being elected thereto, and did actually enjoy ſuch Right for one Year as aforeſaid. But upon the Election of a new Council at the End of the firſt Year, the Aſſembly elected the Lieutenant Governor and the Secretary among the Twenty-eight elective Councellors, inſtead of permitting them to be ſuperadded to the Elective Councellors, as was deſigned by the Charter, and practiſed the Year before. The Lieutenant Governor and Secretary acquieſcing in this, probably from their Unwillingneſs to diſpute with the Aſſembly, upon whom they were dependent, ſubmitted to take their Seats as elected Councellors, inſtead of Official Members of the Council. And this Method prevailing ever after, the King has by theſe Means been deprived of the Service of his Lieutenant Governor and Secretary, the Nomination of whom he had reſerved to himſelf, in his Council, where it appears to have been intended they ſhould have Seats in virtue of their Offices. And great Detriment has aroſe to His Majeſty's Government by their being excluded the Council at particular Times, when they have been moſt wanted, as for late Years has been very obſervable. The Reſpondent therefore having diſcovered this Uſurpation, and finding it too much confirmed by Time for him of himſelf to undertake to reſtore the Lieutenant Governor and Secretary to their Rights, did tranſmit an Account of it to the King's Miniſters, and did mention the ſame to the Council of the Province, or ſome of them, at the ſame Time declaring, that as the Lieutenant Governor and the Secretary had an inherent Right from their Offices to Seats in the Council, though they had uſually been reckoned amongſt the Twenty-eight elected, he ſhould not ſuffer their Seats among the Twenty-eight to be filled up by other Perſons till they were reſtored to their official Seats without the Twenty-eight. This he did in order to leave it open to the Aſſembly

to

to reſtore them to their Seats in the uſual Way at any Time when they ſhould ſee the Impropriety of their being excluded.

5. He has unconſtitutionally interfered with and unduly influenced Elections, particularly in the Choice of an Agent for the Colony.

5. The Reſpondent ſays, That he believes there never was a Governor that leſs interfered with Elections than he has done; ſo that he knows not what to refer this Charge to, unleſs it is to his recommending a Provincial Agent in the Year 1765. This he did, and certainly had a Right to do, as the Provincial Agent is the Agent of the whole General Court, of which the Governor is a Part, and muſt be conſented to and commiſſioned by the Governor before his Appointment is complete. The Gentleman he recommended was accordingly choſen, and ſerved the Province for Two Years, and was the moſt able and reſpectable Agent that the Province ever had.

6. He has abruptly diſplaced divers Gentlemen of Worth, for no apparent Reaſon, but becauſe they voted in the General Aſſembly with Freedom and againſt his Meaſures.

6. The Governor of *Maſſachuſet's Bay* has no Power to diſplace Civil Officers without the Conſent of the Council; and hence it is, that many Perſons hold their Offices in that Province who ought to have been diſplaced long ago. He has indeed a free Power over Military Officers; but has made very little Uſe of it, except in ſuperſeding ſome few Commiſſions of Perſons who profeſſed and abetted ſuch Principles as made them very unfit to have Military Commands under the King.

7. He has in an unwarrantable Manner taken upon himſelf the Exerciſe of Your Majeſty's Royal Prerogative, in granting a Charter for a College; contrary to an expreſs Vote of the Houſe of Repreſentatives, and without even aſking the Advice of Your Majeſty's Council.

7. The Reſpondent never had any Doubt but that he had a Right to grant Charters of Incorporation under the King's Seal, of which he is the Keeper, as is practiſed by all other Royal Governors in *America*. And he did once, ſome Years ago, order a Charter to be made out for eſtabliſhing a Collegiate School in the extreme Parts of the Province, upon the Petition of divers reſpectable Perſons Inhabitants of the ſaid Parts, who were ready to endow the ſaid School. But underſtanding that the propoſed Charter gave Umbrage to the College at *Cambridge* near *Boſton*, he, upon that Account only, and not out of any Doubt of his Power to grant ſuch a Charter, or the Reaſonableneſs and Propriety of the Charter prayed for, put a Stop to the ſame being iſſued: And this is the only Charter that was ever agitated before him ſince he has been Governor of that Province.

8. He has practiſed ſending over Depoſitions to the Miniſtry, privately taken againſt Gentlemen of Character here, without giving the Perſons accuſed the leaſt Notice of his Purpoſes and Proceedings.

8. The Reſpondent knows not what Depoſitions are here referred to, except it be thoſe which it may be ſuppoſed he has tranſmitted to His Majeſty's Miniſters, in Obedience to His Majeſty's Commands ſignified to him for that Purpoſe. And he is ſorry to ſay, that he has not done ſo much in that reſpect as may have been expected of him: For when he received ſuch Commands, he found the Intimidation which the Faction by their former Outrages had raiſed in *Boſton* ſo great and univerſal, that there was a general Unwillingneſs in People of all Kinds to give a formal Teſtimony againſt any of the Factious Party, even of Facts which they made no Scruple to declare their Knowledge of in the Courſe of common Converſation. And therefore having no Power to oblige People to give Teſtimony, and finding it impracticable to procure voluntary Evidence, he could not execute the King's Commands with that Punctuality with which he has always been ſolicitous to diſtinguiſh himſelf in all Acts of Duty.

And here it may be proper to obſerve, that the preceding Article, and all the following Articles, are Charges againſt him for doing Acts which were dictated to him either by the Duty of his Office, or by His Majeſty's Inſtructions given under His Sign Manual, or by His Special Commands ſignified by His Secretary of State. And in all Caſes, where the Reſpondent is charged with Acts which were known to be done in Obedience to His Majeſty's Inſtructions, or His ſpecial Orders, he cannot conſider himſelf to be chargeable with ſuch Acts; but ſuch Charge muſt be underſtood to be, and to be intended to be, directed immediately againſt His Majeſty's Adminiſtration. Under this Rule he will proceed to conſider the following Articles.

9. He has very injuriouſly repreſented Your Majeſty's loving Subjects of this Colony, in general, as having an ill Temper prevailing amongſt them; as diſaffected to Your Majeſty's Government, and intending to bring the Authority of Parliament into Contempt. And, by ſuch falſe Repreſentations, he has been greatly inſtrumental, as this Houſe humbly conceive, in exciting Jealouſies, and diſturbing that Harmony and mutual Affection which before happily ſubſiſted, and we pray GOD may again ſubſiſt, between Your Majeſty's Subjects in *Great Britain* and *America*.

9. It is the Duty of a Governor to report to His Majeſty all Tranſactions by which the Honour of His Crown, the Authority of His Government, and the Welfare of the Province may be affected. The Reſpondent has not only had this Duty preſcribed to him by his general Inſtructions, but has been often reminded of it in the Letters of His Majeſty's Secretaries of State. In doing this, he has ſhewn a Diſpoſition the very contrary to that of miſrepreſenting His Majeſty's loving Subjects of the Colony in general, and has endeavoured to apologize for them where he could do it, by drawing a Line between the few who have been Authors of the preſent Troubles, and their deluded Followers, and diſtinguiſhing between the Wickedneſs of the one, and the Credulity and Intimidation of the other. He has always had a moſt earneſt Deſire to remove Jealouſies, and reſtore that Harmony and mutual Affection which ought to ſubſiſt between *Great Britain* and *America*. He uſed all the Means in his Power to prevent a Breach of a good Underſtanding between the Two Countries; and for that Purpoſe, when the Stamp-act was firſt agitated, notwithſtanding he had Reaſon to believe that the Bill was ſtrongly adopted by the Miniſtry, he wrote a Letter to the Secretary of State, urging many Reaſons which occurred to him, againſt its paſſing into a Law, with a Freedom which nothing but a Conſciouſneſs of his Integrity, a Senſe of his Duty to both Countries, and a Deſire to prevent any Uneaſineſs between them, could have ſupported. Afterwards, when the repealing the Act was in Contemplation, he gave his Teſtimony for the Repeal, both in his public and his private Letters. He has been always ready to join with the Aſſembly in any Meaſures for reconciling the Two Countries, which were conſiſtent with his Duty. But of late he has ſeen no Opening for it; for, by the Convulſions which happened upon Account of the Stamp-Act, and their Conſequences, the Management of the Public Affairs

Affairs of the Province has got into the Hands of a Party whoſe Principles and Practices are the very reverſe of thoſe of Conciliation.

10. He has, in his Letters to one of Your Majeſty's Miniſters, unjuſtly charged the Majority of Your Majeſty's faithful Council in the Colony with having avowed the Principles of Oppoſition to the Authority of Parliament, and acted in Concert with a Party from whence ſuch Oppoſition originated.

10. The Reſpondent's Report of the Proceedings of the Council, from whence their Oppoſition to the Authority of Parliament has been inferred, was fully ſupported by authentic Papers. And though it has been ſince made a Subject of Argument, yet not one material Fact alledged by him has been poſitively denied.

11. He has alſo, in his Letter to another of Your Majeſty's Miniſters, falſely declared that a Plan was laid, and a Number of Men actually inrolled in the Town of *Boſton*, to ſeize Your Majeſty's Caſtle *William*, in the Harbour of the ſame, out of Your Majeſty's Hands.

11. The Account of a Deſign to ſeize *Caſtle William* is expreſsly mentioned, not to be related as a certain Fact, but only as reported and believed. Under ſuch Circumſtances, it would have been an inexcuſable Neglect of Duty in the Reſpondent not to have informed the Secretary of State of a credited Report of ſo intereſting a Nature. But, as he had not poſitive Proof of the Fact, he did not accuſe any Perſon by Name. The Truth is, he had Intelligence which he could not make a public Uſe of, ſufficient to induce him to believe that Report then, and has ſince had Occaſion to confirm himſelf in ſuch Belief; but he has not been able to obtain poſitive Proof of the Fact, for the Reaſons given in his Anſwer to the Eighth Article.

12. Such Repreſentations of the State and Circumſtances of this Colony, from a Gentleman of the higheſt Truſt in it, will of Neceſſity be received with full Credit, till they are made to appear falſe. And in Conſequence thereof, Your Majeſty's true and loyal Subjects have ſuffered the Reproach as well as other Hardſhips of having a Military Force ſtationed here, to ſupport Your Majeſty's Authority, and the Execution of the Laws; which Meaſure has been approved of by Your Majeſty's Two Houſes of Parliament, as appears in their Reſolutions, that the Town of *Boſton* had been in a State of Diſorder and Confuſion; and that the Circumſtances of the Colony were ſuch as required a Military Force for the Purpoſes above-mentioned.

12. This is one of thoſe Articles before mentioned, which paſſes by the Reſpondent, and attacks the Adminiſtration and the Two Houſes of Parliament; charging the firſt with ordering Troops to be ſtationed at *Boſton*, and the Two laſt with paſſing Reſolutions without ſufficient Grounds to juſtify ſuch Proceedings. Whereas it is notorious, that the ſending Troops to *Boſton*, and the Reſolutions of the Two Houſes of Parliament, were founded upon undoubted and indiſputable Facts, ſupported by a Variety of Evidence, drawn for the moſt Part from authentic Papers, and in no Way depending upon the meer Sayings and Opinions of the Reſpondent.

13. Having been a principal Inſtrument, as we apprehend, in procuring this Military Force, Your Majeſty's ſaid Governor, in an unprecedented Manner, and as though he had deſigned to irritate to the higheſt Degree, ordered the very Room which is appropriated for the Meeting of the Repreſentatives of the General Aſſembly, which was never uſed for any other Purpoſe, and where their Records are kept, to be employed as a Barrack for the Common Soldiers: And the Centinels were ſo poſted as that Your Majeſty's Council and the Juſtices

13. The Preamble of this Article, whereby the Reſpondent is charged with being a principal Inſtrument in procuring the Military Force which was ſent to *Boſton*, has ſince been falſified by the Party publiſhing the Reſpondent's Letters, from ſome of which it appears, that he abſolutely refuſed to apply for Troops unleſs the Council would join with him in it; which they refuſing to do, he never applied for Troops. As for the Charge itſelf, the Fact was this: Having received His Majeſty's Orders to take every neceſſary Step for the Accommodation of his Troops at *Boſton*, he applied to the Council, to the Select-Men of the Town, and to all the Juſtices in the Town, whom he called together for that Purpoſe, being all the Perſons that could be pointed out by the Act of Parliament for quartering Soldiers, ſeverally and eparately, deſiring them to provide Quarters for the Soldiers. This they all refuſed to do; ſo that when the Commanding Officer found himſelf obliged to land Two Regiments at *Boſton*, there were no Quarters for them. Whereupon the Commanding Officer applying to the Reſpondent to provide a Covering for one of the Regiments, who had no Camp-Equipage with them, until they could hire Buildings at the King's Expence to make Barracks of, the Reſpondent aſſigned to them ſeveral Rooms in the Town-Houſe, which were not then in Uſe, among which was the Repreſentatives Chamber; and there the Regiment remained, without any Inconvenience to the Public, or any Perſons whatſoever, until Barracks were provided for them. What enhances the Falſity and Virulence of this Charge is, that the Party who has preferred it knew that the Reſpondent acted in this Buſineſs under the King's ſpecial Orders, and that His Majeſty has ſince been pleaſed to ſignify

Juſtices of the Courts of Common Law were daily interrupted, and even challenged, in their proceeding to the Buſineſs of their ſeveral Departments.

ſignify His full Approbation of his Conduct, under the Difficulties that were continually thrown in his Way. And yet they have had the Boldneſs in this indirect Manner to arraign His Majeſty's Adminiſtration for iſſuing Orders, with which the Reſpondent had nothing to do but to obey.

14. He endeavoured, contrary to the expreſs Deſign of an Act of Parliament, to quarter Your Majeſty's Troops in the Body of the Town of *Boſton*, while the Barracks provided by the Government at the Caſtle within the Town remained uſeleſs; and, for Purpoſes manifeſtly evaſive of the ſaid Act, he unwarrantably appointed an Officer to provide Quarters for the Troops, otherwiſe than is therein preſcribed.

14. This Article is of the ſame Complexion with the preceding, but much more falſe and prevaricating. The Fact upon which it is founded is this: The King ordered Two Regiments, to be ſent from *Ireland*, to be landed at *Boſton*; and alſo ordered Two other Regiments to be ſent from *Halifax* to *Boſton*. The Two Regiments from *Halifax* arrived firſt; and the Commanding Officer, ſignifying to the Reſpondent that he had Orders to ſtation both thoſe Regiments at *Boſton*, demanded Quarters. The Reſpondent conſulted the Council, and by their Advice applied to the Select-Men of the Town, and then to the Juſtices of Peace, and laſt of all to the Council themſelves: But they all refuſed to aſſign any Quarters to the Two Regiments, under different Pretences; the principal of which was, that they ought to be quartered at the Caſtle, upon an Iſland, diſtant from the Town of *Boſton* Three Miles by Sea and Seven Miles by Land, where there were Barracks that would hold only One Regiment, and that but inconveniently, as has been ſin[illegible] proved. And though the Impoſſibility of quartering Four Regiments in Barracks that [illegible]ld hold but One, and the Impropriety of quartering Troops in an Iſland diſtant from *Boſton*, which were expreſsly ordered to be ſtationed at *Boſton*, were urged again and again, they ſtill perſiſted in refuſing Quarters: Wherefore the Commander in Chief found himſelf obliged to hire Buildings, and fit them up for Barracks, at the King's Expence, for Three of the Regiments, after having aſſigned the Barracks at the Caſtle for the other Regiment. And Endeavours were uſed to defeat even this, the only Method left for executing the King's Commands; for it was given out by the Faction, that if any Soldiers were put into ſuch Barracks, the Officers commanding ſuch Soldiers would be proſecuted for quartering Soldiers without the Interpoſition of a Magiſtrate, contrary to the Mutiny-Act, and, being convicted thereof by Two Juſtices, would incur the Penalty of being caſhiered. To prevent this Abuſe of the Act, the Reſpondent, at the Requeſt of General *Gage*, Commander in Chief, granted a Commiſſion to an Officer of his to place the Soldiers in the Barracks, which ſhould be provided for them at the King's Expence. And this is the Fact upon which the Charge againſt the Reſpondent, for evaſively appointing an Officer to provide Quarters for the Troops otherwiſe than is preſcribed by the Act, is founded. The Reſpondent is ſorry that he is obliged, by the deſigned Generality of the Charge, in his Defence thereto, to ſtate ſuch a Detail of Untruths, Prevarications, and Contempt of Law and Authority, in the Promoters of the Accuſation againſt him: But it is all to be accounted for by the Propagation of One Maxim, which originated with the Faction, and has lately been adopted by the Houſe of Repreſentatives, That the King has no Right to order any of His Troops into any of the *American* Provinces, with[illegible] being firſt authorized ſo to do by an Act of the Provincial Aſſembly. And from this Pr[illegible]ion the Tranſition is eaſy to the Preſumption of petitioning the King to puniſh an Offi[illegible]f His, for obeying His Commands, and aſſiſting to carry His Orders into Execution.

15. After having diſſolved the General Aſſembly at a moſt critical Seaſon, and while they were employed in the moſt neceſſary and important Buſineſs, he arbitrarily refuſed to call another for the Space of Ten Months, and until the Time appointed in the Royal Charter for the calling a General Aſſembly, againſt the repeated and dutiful Petitions of the People.

15. The Facts, upon which this Article is [illegible]ounded, are theſe: In *June*, 1768, while the Aſſembly of the Province was ſitting, the Reſpondent received a Letter from the Secretary of State, ſignifying the King's Pleaſure, That he ſhould require of the Houſe of Repreſentatives to reſcind a Reſolution paſſed in a former Houſe, and to declare their Diſapprobation of it; and, if they ſhould refuſe to comply, that he ſhould immediately diſſolve them. He communicated to the Houſe the Firſt Part of the Letter, containing the Requiſition; and upon their deſiring a Copy of the whole Letter, he communicated to them the other Part of the Letter, containing the proviſional Order to diſſolve them. The Houſe took Nine Days to conſider of this Requiſition; and in that Time paſſed all the neceſſary Public Bills, and particularly the Tax-Bill, which the Governor reminded them of paſſing, previouſly to their giving their Anſwer; informing them, That, if he ſhould be obliged to diſſolve them, he ſhould not be at Liberty to call another Aſſem[illegible]ly till he received His Majeſty's Commands for that Purpoſe. The Houſe at length giving [illegible]heir Anſwer, by which they refuſed to comply with His Majeſty's Requiſition, he diſſolved [illegible]hem, as he was in Duty bound to do. And having received His Majeſty's Commands not to [illegible]all a new Aſſembly until the *May* following, being the Time appointed by the Charter, he [illegible]beyed that Order alſo. Theſe are the true Facts upon which this Article is founded; and [illegible]hey were all known to the Complainants at the Time when they preſumed to petition His M[illegible]jeſty to puniſh a Servant of His, for what he did wholly in Obedience to His Majeſty's expre[illegible] Commands.

16. It appears by his Letters to the Earl of *Hilſborough*, Your Majeſty's Secretary of State, that he has endeavoured to overthrow the preſent Conſtitution of Government in this Colony, and to have the People deprived of their invaluable Charter Rights, which they and their Anceſtors

16. It is the undoubted Duty of a Governo[illegible] to accompany his Reports of intereſting Proceedings in his Province with his own Opinion [illegible]f them; and it is indiſpenſable, when he is giving an Account of Diſorders in his Governme[illegible], to endeavour to trace the Cauſes of them, and to point out the Remedies. In the Provinc[illegible] of *Maſſachuſet's Bay*, when Civil Authority was reduced ſo low as to have nothing left but [illegible]he Form of a Government, and ſcarce even that, an Enquiry into the Cauſes of ſo great [illegible] Weakneſs in the Governing Powers was unavoidable; and there was no entering upon ſ[illegible]h an Enquiry, without obſerving upon the ill Effects of that Part of the Conſtitution of [illegible]at Government, whereby the Appointment of the Council is left to the People, to be m[illegible]e by Annual Election; and yet the Royal Governor, in all Acts of Prerogative, is ſubject [illegible]o the Controul of the Democratical Council. This Soleciſm in Policy has been as hurtfu[illegible] in Practice as it is abſurd in Theory, and

is

ceſtors have happily enjoyed under Your Majeſty's Adminiſtration, and thoſe of Your Royal Predeceſſors.

is the true Cauſe of the extreme Imbecility of the Power of the Crown in this Government, at Times when the Exertion of it is moſt wanted. This is not an Obſervation of a new Date; it is of many Years ſtanding; and the Avowal of the Reſpondent's Opinion on this Occaſion, is not to be reckoned from the Date of his Letters to the Earl of *Hillſborough*: He has made no Scruple to declare his Sentiments upon this Subject, ever ſince he has felt the Effects which the Popular Conſtitution of the Council has had upon the Royalty of the Government, which is above Three Years ago; within which Time, he has ſeen the King deprived of the Service of every Man at the Council Board who has had Reſolution enough to diſapprove the Oppoſition to the Authority of the King and the Parliament, and their Supremacy over the *American* Colonies. This, and this only, is the Foundation of the Charge of his endeavouring to overthrow the Charter; whereas his real Deſire has been, that the Charter ſhould have a more durable Stability, by means of a neceſſary Alteration, without which, he is perſuaded it cannot have a much longer Duration; as the Abuſe of the Appointment of the Council now prevailing, muſt oblige the Parliament to interfere ſooner or later. And therefore he is perſuaded, that, in avowing this Opinion, he has acted not only as a faithful Servant of the King, and a true Subject of *Great Britain*, but alſo as a real Friend of the Province of *Maſſachuſet's Bay*, whoſe true Intereſt it is, to have its Government ſo confirmed and eſtabliſhed, that it may not be liable to be continually diſturbed and diſgraced by factious and deſigning Men, as it is at preſent.

17. By the Means aforeſaid, and many others that might be enumerated, he has rendered his Adminiſtration odious to the whole Body of the People, and has entirely alienated their Affections from him, and thereby wholly deſtroyed that Confidence in a Governor, which Your Majeſty's Service indiſpenſably requires.

17. The Reſpondent denies, that by the Means mentioned in the aforeſaid Complaint, or by any other Means, he has rendered his Adminiſtration odious to the whole Body of the People. He denies, that the Opinion of the whole People of that Province can now be taken and aſcertained, labouring as it does at preſent, under the baneful Influence of a deſperate Faction, who, by raiſing groundleſs Fears and Jealouſies, by deluding one Part of the People and intimidating the other Part, has deſtroyed all real Freedom, not only of Action, but even of Sentiment and Opinion. But the Reſpondent doubts not but that his Adminiſtration has been approved of by the Generality of the beſt and moſt reſpectable Men in the Province; and aſſures himſelf, that notwithſtanding that, in the Courſe of the late Diſputes, he has been obliged by his Duty to give his Teſtimony againſt ſome popular Prejudices, when the preſent Infatuation ſhall ceaſe, and Truth and Reaſon ſhall be allowed to interpoſe, he ſhall be acknowledged to have been a faithful Servant of the King, and a real Friend of the People. In the mean Time, having been honoured with His Majeſty's Approbation of his whole Conduct, and that of the Two Houſes of Parliament of ſome principal Parts of it, he ſhall leave it to the Province of *Maſſachuſet's Bay* to do him Juſtice at their own Time; and ſhall commit himſelf to the Diſpoſal of His Majeſty, as it ſhall be thought beſt for His Service, in perfect Confidence, that he ſhall not ſuffer for ſacrificing his Intereſt to his Fidelity.

Wherefore we moſt humbly intreat Your Majeſty, that his Excellency Sir *Francis Bernard* Baronet may be for ever removed from the Government of this Province: And that Your Majeſty would be graciouſly pleaſed to place One in his ſtead, worthy to ſerve the greateſt and beſt Monarch on Earth.

And the Reſpondent, for Proof of ſuch Allegations in this Anſwer as ſhall require it, begs Leave to refer to His Majeſty's Inſtructions, and the Letters of His Secretaries of State and Commiſſioners for Trade and Plantations directed to him the Reſpondent, to the Acts of the Council and the Province, to the Journals of the Houſe of Repreſentatives, to his own Letters to [illegible] Secretaries of State and Commiſſioners for Trade [illegible] Papers (which Letters and Papers being wrote without any probable View of their being uſed for this Purpoſe he humbly ſubmits ought to be admitted as Evidence, eſpecially of his Intention and Meaning, upon which great Part of the Complaint againſt him is made to depend), and to ſuch other Evidence as he ſhall be able to procure here, after having been, by the Practices of the Managers of the Accuſation againſt him, prevented having the Benefit of ſuch Evidence as was to be had in the Province of *Maſſachuſet's Bay*.

And the Repreſentatives of the Colony of *Maſſachuſet's Bay*, as in Duty bound, ſhall ever pray.

In their Name, and by their Order, ſigned,

THOMAS CUSHING, Speaker.

9 JU 64